

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14454 of 2024

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M/S Silverline a Proprietorship Firm having its Place of Business at Mourya Vihar Colony, Near Biscoman Golambar, Gulzarbagh, P.O.-Gulzarbagh, P.S.-Alamganj, District-Patna, Bihar-800007 through its Proprietor Namely Nishi Kumari, Female, aged about 61 Years, Wife of Mr. Vimal Kumar, Residing at 278, Nehru Nagar, Patliputra Colony, P.O. and P.S.-Patliputra Colony, Disirct-Patna, Bihar-800013.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Cum Commissioner, Commercial Tax Department, Government of Bihar, Patna, Bihar.
2. The Deputy Commissioner State Tax, Patna City West Circle, Patna East Division, Patna City, Bihar.
3. The Additional Commissioner of State Tax (Appeals), Patna East Division, Patna, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Anubhav Khowala, Advocate
For the Respondent/s : Mr.Standing Counsel 11

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-10-2024

The petitioner challenges the order of the appellate authority at Annexure-P/7.

2. Though the appeal was filed in time but the appellate authority despite opportunity being granted to the appellant to produce the documents in support of his case, he did not produce the same, dismissed the appeal of the petitioner.



3. A Division Bench has already held in **Purushottam Stores vs. The State of Bihar & Ors; CWJC No. 4349 of 2023** decided on 25.04.2023; looking at the provisions of the Bihar Goods and Services Tax Act especially sub-sections (8), (9), (10), (11) and (12) of Section 107 of the Act, that the Appellate Authority has a duty and an obligation under the statute to look into the merits of the matter and also examine the grounds raised by the appellant and decide the issue on merits. The Appellate Authority even while considering the appeal *ex parte* will have to consider the grounds raised in the memorandum of appeal, deciding the appeal on merits, failing which it would be abdicating its powers especially looking at the provisions where the Appellate Authority has been empowered to conduct such further enquiry as found necessary to decide the appeal, which decision also shall be on the points raised.

4. We, hence, set aside the order produced at Annexure-P/7 and direct the restoration of appeal before the Appellate Authority.

5. The petitioner shall appear before the Appellate Authority on 12.11.2024. The Appellate Authority or its office shall fix a date of hearing on the said date, with due



acknowledgment taken from the appellant; if the date of hearing is issued personally from the office, proceed with the hearing on the date fixed and dispose of the appeal on merits within three months from the date of last hearing. We also direct the petitioner to cooperate in the hearing of the appeal and even if there is absence of the appellant or his authorized representative on the date of hearing, the Appellate Authority shall consider the appeal on merits and pass a speaking order.

6. The writ petition stands allowed with the above direction.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA

